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EXAMINER
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NAJARIAN, LENA

ART UNIT	PAPER NUMBER
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3626

DATE MAILED: 01/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/730,254

Applicant(s)

ENGEL ET AL.

Examiner

Lena Najarian

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 11 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-39 is/are rejected.
- 7) ☒ Claim(s) 36 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Notice to Applicant***

1. This communication is in response to the request for continued examination (RCE) filed 7/27/05 and supplemental amendments filed 10/5/05 and 11/11/05. Claims 1-39 are pending.

### ***Claim Objections***

2. The objection of claim 1 is hereby withdrawn due to the amendment filed 7/27/05.
3. Claim 36 is objected to because of the following informalities: "complaint" is misspelled at line 7. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 37-39 are rejected under 35 U.S.C. 102(e) as being anticipated by Bid For Surgery (as disclosed by [www.medicineonline.com/bidforsurgery](http://www.medicineonline.com/bidforsurgery), [www.mol.net/media/auctionwatch](http://www.mol.net/media/auctionwatch), and [www.mol.net/media/healthsurfing](http://www.mol.net/media/healthsurfing)).

(A) Referring to claim 37, Bid For Surgery discloses a method of obtaining information about at least one healthcare service provider, the method comprising:

entering, via a terminal, case statement information into a case statement template, the case statement template having a basic information section for specifying characteristics of an individual and health insurance information of the individual and a clinical information section for specifying a category of a procedure and past medical history of the individual (para. 5 of [www.medicineonline.com/bidforsurgery](http://www.medicineonline.com/bidforsurgery), para. 15 of [www.mol.net/media/healthsurfing](http://www.mol.net/media/healthsurfing), and para. 6 of [www.mol.net/media/auctionwatch](http://www.mol.net/media/auctionwatch));

transmitting the case statement information over a network (para. 6 of [www.medicineonline.com/bidforsurgery](http://www.medicineonline.com/bidforsurgery)); and

receiving information about at least one healthcare service, the information based on the case statement information and including a clinical track record and service information (para. 7, para. 11, and para. 20 of [www.medicineonline.com/bidforsurgery](http://www.medicineonline.com/bidforsurgery)).

(B) Referring to claim 38, Bid For Surgery discloses wherein receiving information about at least one healthcare service includes receiving information about a facility associated with the at least one healthcare service provider (para. 14 and para. 16 of [www.medicineonline.com/bidforsurgery](http://www.medicineonline.com/bidforsurgery)).

(C) Referring to claim 39, Bid For Surgery discloses wherein receiving information about at least one healthcare service includes receiving information about at least one price associated with a procedure performed by the at least one healthcare service provider (para. 7 of [www.medicineonline.com/bidforsurgery](http://www.medicineonline.com/bidforsurgery)).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-2, 4-8, 11-16, 25-29, and 31-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bid For Surgery (as disclosed by [www.medicineonline.com/bidforsurgery](http://www.medicineonline.com/bidforsurgery), [www.mol.net/media/auctionwatch](http://www.mol.net/media/auctionwatch), and [www.mol.net/media/healthsurfing](http://www.mol.net/media/healthsurfing)) in view of Lavin et al. (5,772,585).

(A) Referring to claim 1, Bid For Surgery discloses a method of selling healthcare services to a patient, the method comprising:

establishing a plurality of contracting healthcare service providers (para. 7 of [www.medicineonline.com/bidforsurgery](http://www.medicineonline.com/bidforsurgery); the Examiner interprets "registered" to be a form of "contracting")

providing, via a patient terminal, a case statement template having a basic information section for specifying an identifier of the patient (para. 6 of [www.mol.net/media/auctionwatch](http://www.mol.net/media/auctionwatch); the Examiner interprets "social security number" to be a form of "identifier") and a clinical information section for specifying a category of a procedure, a specific procedure (para. 5 and para. 6 of [www.medicineonline.com/bidforsurgery](http://www.medicineonline.com/bidforsurgery)), and past medical history of the patient (para. 6 of [www.mol.net/media/auctionwatch](http://www.mol.net/media/auctionwatch));

transmitting case statement information specified in the case statement template over a network, at least a portion of the case statement information provided by the patient (para. 6 of [www.medicineonline.com/bidforsurgery](http://www.medicineonline.com/bidforsurgery));

preparing a case statement based on the case statement information (para. 5 and para. 6 of [www.medicineonline.com/bidforsurgery](http://www.medicineonline.com/bidforsurgery));

delivering the case statement to at least one contracting healthcare service provider (para. 7 of [www.medicineonline.com/bidforsurgery](http://www.medicineonline.com/bidforsurgery)); and

receiving a response from the at least one contracting healthcare service provider, the response based on the delivered case statement and including a price, a clinical track record, and service information (para. 7, para. 11, and para. 20 of [www.medicineonline.com/bidforsurgery](http://www.medicineonline.com/bidforsurgery)).

Bid For Surgery does not expressly disclose the template having contact information of the patient and a complaint of the patient.

Lavin discloses templates specifying contact information of a patient and the chief complaint of a patient (Fig. 5 and Fig. 12 of Lavin).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the features of Lavin within Bid For Surgery. The motivation for doing so would have been to retrieve pertinent information, such as address and telephone information (col. 7, lines 19-21 of Lavin) and to provide reasons for the patient's request (col. 8, lines 50-54 of Lavin).

(B) Referring to claim 2, Bid For Surgery discloses wherein the response includes information concerning one or more clinical quality indicators for one healthcare service

provider (para. 16 of [www.medicineonline.com/bidforsurgery](http://www.medicineonline.com/bidforsurgery); the Examiner interprets “experience” to be a form of “clinical quality indicator”).

(C) Referring to claim 4, Bid For Surgery discloses wherein the one or more clinical quality indicators includes the number of times a medical procedure has been performed (para. 16 of [www.mol.net/media/healthsurfing](http://www.mol.net/media/healthsurfing)).

(D) Referring to claim 5, Bid For Surgery discloses wherein the one or more clinical quality indicators includes the number of times a medical procedure has been performed by a physician associated with one of the one or more contracting healthcare service providers (para. 16 of [www.mol.net/media/healthsurfing](http://www.mol.net/media/healthsurfing)).

(E) Referring to claim 6, Bid For Surgery discloses reviewing the response from the at least one healthcare service provider (para. 11 of [www.medicineonline.com/bidforsurgery](http://www.medicineonline.com/bidforsurgery)).

(F) Referring to claim 7, Bid For Surgery discloses wherein reviewing the response from the at least one healthcare service provider includes reviewing the response with a referring physician (para. 11 and para. 12 of [www.medicineonline.com/bidforsurgery](http://www.medicineonline.com/bidforsurgery)).

(G) Referring to claim 8, Bid For Surgery discloses wherein the response includes information concerning the total cost of a medical procedure (para. 14 of [www.medicineonline.com/bidforsurgery](http://www.medicineonline.com/bidforsurgery)).

(H) Referring to claim 11, Bid For Surgery discloses wherein preparing a case statement from case statement information includes filtering unique identifying information (para. 6 of [www.medicineonline.com/bidforsurgery](http://www.medicineonline.com/bidforsurgery)).

(I) Referring to claim 12, Bid For Surgery discloses scheduling an outpatient visit with the patient and a staff member of the at least one contracting healthcare service provider (para. 21 and para. 22 of [www.medicineonline.com/bidforsurgery](http://www.medicineonline.com/bidforsurgery)).

(J) Referring to claim 13, Bid For Surgery discloses wherein the price is a not-to-exceed amount (para. 14 of [www.medicineonline.com/bidforsurgery](http://www.medicineonline.com/bidforsurgery)).

(K) Referring to claim 14, Bid For Surgery discloses wherein the price includes charges of a facility of the at least one contracting healthcare service provider and charges of principal professionals performing the healthcare services (para. 14 of [www.medicineonline.com/bidforsurgery](http://www.medicineonline.com/bidforsurgery)).

(L) Referring to claim 15, Bid For Surgery discloses a system of selling healthcare services, the system comprising:

a database of contracting healthcare service providers (para. 7 of [www.medicineonline.com/bidforsurgery](http://www.medicineonline.com/bidforsurgery));

a healthcare case statement information submission mechanism for providing a case statement template having a basic information section for specifying unique identifying information for uniquely identifying the patient (para. 6 of [www.mol.net/media/auctionwatch](http://www.mol.net/media/auctionwatch)), the case statement template further having a clinical information section for specifying a category of a procedure, a specific procedure (para. 5 and para. 6 of [www.medicineonline.com/bidforsurgery](http://www.medicineonline.com/bidforsurgery)), and past medical history of the patient (para. 6 of [www.mol.net/media/auctionwatch](http://www.mol.net/media/auctionwatch)), the healthcare case statement information submission mechanism for transmitting case statement information over a



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network, the case statement information including the unique identifying information for uniquely identifying the patient (para. 6 of [www.medicineonline.com/bidforsurgery](http://www.medicineonline.com/bidforsurgery));

a case statement engine for generating de-identified case statements based on the case statement information, the de-identified case statements excluding the unique identifying information (para. 6 of [www.medicineonline.com/bidforsurgery](http://www.medicineonline.com/bidforsurgery));

a healthcare case statement distribution engine for delivering de-identified case statements to healthcare service providers (para. 6 and para. 7 of [www.medicineonline.com/bidforsurgery](http://www.medicineonline.com/bidforsurgery));

a proposal construction engine including clinical quality indicator areas (para. 7 of [www.medicineonline.com/bidforsurgery](http://www.medicineonline.com/bidforsurgery)); and

a response-receiving engine for receiving responses from healthcare service providers (para. 11 of [www.medicineonline.com/bidforsurgery](http://www.medicineonline.com/bidforsurgery)).

Bid For Surgery does not expressly disclose specifying a complaint of the patient.

Lavin discloses specifying the chief complaint of a patient (Fig. 12 of Lavin).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the features of Lavin within Bid For Surgery. The motivation for doing so would have been to provide reasons for the patient's request (col. 8, lines 50-54 of Lavin).

(M) Referring to claim 16, Bid For Surgery discloses a database of patients (para. 9 of [www.medicineonline.com/bidforsurgery](http://www.medicineonline.com/bidforsurgery)).

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(N) Referring to claim 25, Bid For Surgery discloses at least one patient terminal coupled to the healthcare case statement distribution engine (para. 5, para. 6, and para. 7 of [www.medicineonline.com/bidforsurgery](http://www.medicineonline.com/bidforsurgery)).

(O) Referring to claim 26, Bid For Surgery discloses at least one service provider terminal coupled to the healthcare case statement distribution engine (para. 7 of [www.medicineonline.com/bidforsurgery](http://www.medicineonline.com/bidforsurgery)).

(P) Referring to claim 27, Bid For Surgery discloses wherein the healthcare case statement submission mechanism; the healthcare case statement distribution engine; the proposal construction engine; and the response-receiving engine are located on a server (para. 6 of [www.medicineonline.com/bidforsurgery](http://www.medicineonline.com/bidforsurgery)).

(Q) Referring to claim 28, Bid For Surgery discloses a method of selling healthcare services to a patient, the method comprising:

establishing a plurality of contracting healthcare service providers (para. 7 of [www.medicineonline.com/bidforsurgery](http://www.medicineonline.com/bidforsurgery));

providing a case statement template having a basic information section for specifying an identifier of the patient (para. 6 of [www.mol.net/media/auctionwatch](http://www.mol.net/media/auctionwatch)) and health insurance information of the patient (para. 15 of [www.mol.net/media/healthsurfing](http://www.mol.net/media/healthsurfing)) and a clinical information section for specifying a category of procedure, a specific procedure, and past medical history of the patient (para. 5 and para. 6 of [www.medicineonline.com/bidforsurgery](http://www.medicineonline.com/bidforsurgery) and para. 6 of [www.mol.net/media/auctionwatch](http://www.mol.net/media/auctionwatch));

transmitting case statement information, at least a portion of which is provided by the patient, from the case statement template over a network (para. 6 of [www.medicineonline.com/bidforsurgery](http://www.medicineonline.com/bidforsurgery));

preparing a case statement based on the case statement information (para. 6 of [www.medicineonline.com/bidforsurgery](http://www.medicineonline.com/bidforsurgery));

establishing profile criteria for each of the plurality of contracting healthcare service providers, the profile criteria limiting case statements made available to a contracting healthcare service provider based on a medical area associated with the clinical requirements of the patient (para. 7 of [www.medicineonline.com/bidforsurgery](http://www.medicineonline.com/bidforsurgery));

making the case statement available to each contracting healthcare service provider whose profile criteria matches the case statement (para. 7 of [www.medicineonline.com/bidforsurgery](http://www.medicineonline.com/bidforsurgery)); and

receiving a response to the case statement from the at least one contracting healthcare service provider, the response including a price, a clinical track record, and non-clinical information (para. 7 and para. 11 of [www.medicineonline.com/bidforsurgery](http://www.medicineonline.com/bidforsurgery)).

Bid For Surgery does not expressly disclose specifying a complaint of the patient.

Lavin discloses specifying the chief complaint of a patient (Fig. 12 of Lavin).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the features of Lavin within Bid For Surgery. The motivation for doing so would have been to provide reasons for the patient's request (col. 8, lines 50-54 of Lavin).

Insofar as the claim recites "at least one of," it is immaterial whether or not the other elements are also disclosed.

(R) Claim 29 repeats the same limitations of claim 2 and is therefore rejected for the same reasons given for that claim.

(S) Claims 31-34 repeat the same limitations of claims 4-7 and are therefore rejected for the same reasons given for those claims.

(T) Referring to claim 35, Bid For Surgery discloses a method of selling healthcare services to a patient, the method comprising:

establishing a plurality of contracting healthcare service providers (para. 7 of [www.medicineonline.com/bidforsurgery](http://www.medicineonline.com/bidforsurgery));

providing, via a patient terminal, a case statement template having a basic information section for specifying an identifier of the patient, and a clinical information section for specifying a category of procedure, a specific procedure, and past medical history of the patient (para. 5 and para. 6 of [www.medicineonline.com/bidforsurgery](http://www.medicineonline.com/bidforsurgery));

transmitting case statement information specified in the case statement template over a network (para. 6 of [www.medicineonline.com/bidforsurgery](http://www.medicineonline.com/bidforsurgery));

preparing a case statement based on the case statement information (para. 6 of [www.medicineonline.com/bidforsurgery](http://www.medicineonline.com/bidforsurgery));

transmitting the case statement to at least one contracting healthcare service provider (para. 7 of [www.medicineonline.com/bidforsurgery](http://www.medicineonline.com/bidforsurgery)); and

receiving a response from the at least one contracting healthcare service provider, the response including a price, a clinical track record, and service information (para. 7 and para. 11 of [www.medicineonline.com/bidforsurgery](http://www.medicineonline.com/bidforsurgery)).

Bid For Surgery does not expressly disclose specifying a name of the referring physician of the patient and a complaint of the patient.

Lavin discloses specifying a name of the referring physician of the patient and a complaint of the patient (Fig. 7, item 93 and Fig. 12, item 138 of Lavin).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the features of Lavin within Bid For Surgery. The motivation for doing so would have been to include a space for recording the referring physician of the patient (col. 7, lines 23-25 of Lavin) and provide reasons for the patient's request (col. 8, lines 50-54 of Lavin).

(U) Referring to claim 36, Bid For Surgery discloses a method of receiving information related to healthcare services, the method comprising:

entering, via a terminal, case statement information into a case statement template, the case statement template having a basic information section for specifying an identifier of the patient (para. 6 of [www.mol.net/media/auctionwatch](http://www.mol.net/media/auctionwatch)), and health insurance information of the patient (para. 15 of [www.mol.net/media/healthsurfing](http://www.mol.net/media/healthsurfing)) and a clinical information section for specifying a category of a procedure, a specific procedure, and past medical history of the patient (para. 5 and para. 6 of [www.medicineonline.com/bidforsurgery](http://www.medicineonline.com/bidforsurgery));

transmitting the case statement information over a network (para. 6 of [www.medicineonline.com/bidforsurgery](http://www.medicineonline.com/bidforsurgery)); and

receiving a response from at least one healthcare service provider among a plurality of healthcare service providers that present service proposals to potential patients responsive to patient-originated requests, the response based on the case statement information and including a price, a clinical track record, and service information (para. 7, para. 11, and para. 20 of [www.medicineonline.com/bidforsurgery](http://www.medicineonline.com/bidforsurgery)).

Bid For Surgery does not expressly disclose the template having contact information of the patient and a complaint of the patient.

Lavin discloses templates specifying contact information of a patient and the chief complaint of a patient (Fig. 5 and Fig. 12 of Lavin).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the features of Lavin within Bid For Surgery. The motivation for doing so would have been to retrieve pertinent information, such as address and telephone information (col. 7, lines 19-21 of Lavin) and to provide reasons for the patient's request (col. 8, lines 50-54 of Lavin).

8. Claims 3 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bid For Surgery (as disclosed by [www.medicineonline.com/bidforsurgery](http://www.medicineonline.com/bidforsurgery), [www.mol.net/media/auctionwatch](http://www.mol.net/media/auctionwatch), and [www.mol.net/media/healthsurfing](http://www.mol.net/media/healthsurfing)) in view of Lavin et al. (5,772,585), and further in view of Papageorge (US 6,584,445 B2).

(A) Referring to claim 3, Bid For Surgery and Lavin do not disclose wherein the one or more clinical quality indicators includes the mortality rate for a medical procedure.

Papageorge discloses that the users receive data, such as morbidity and mortality rates for each treatment (column 7, lines 25-29 of Papageorge).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the feature of Papageorge within Bid For Surgery and Lavin. The motivation for doing so would have been to provide the users with information on the risks of each treatment option (column 7, lines 41-44 of Papageorge).

(B) Claim 30 repeats the same limitations of claim 3 and is therefore rejected for the same reasons given for that claim.

9. Claims 9-10, 17, 19-20, and 22-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bid For Surgery (as disclosed by [www.medicineonline.com/bidforsurgery](http://www.medicineonline.com/bidforsurgery), [www.mol.net/media/auctionwatch](http://www.mol.net/media/auctionwatch), and [www.mol.net/media/healthsurfing](http://www.mol.net/media/healthsurfing)) in view of Lavin et al. (5,772,585), and further in view of Henley (US 2002/0065758 A1).

(A) Referring to claim 9, Bid For Surgery and Lavin do not disclose securing the services of a responding healthcare service provider by sending a deposit to the responding healthcare service provider.

Henley discloses securing the services of a responding healthcare service provider by sending a deposit to the responding healthcare service provider (para. 117 of Henley).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the feature of Henley within Bid For Surgery and Lavin. The motivation for doing so would have been to minimize costly last minute cancellations (para. 117 of Henley).

(B) Referring to claim 10, Bid For Surgery and Lavin do not disclose securing the services of a responding healthcare service provider by sending a deposit to a marketplace operator and sending a remaining amount to the responding healthcare service provider.

Henley discloses securing the services of a responding healthcare service provider by sending a deposit to a marketplace operator and sending a remaining amount to the responding healthcare service provider (para. 117 and para. 88 of Henley).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the feature of Henley within Bid For Surgery and Lavin. The motivation for doing so would have been for users to be billed for system use (para. 88 of Henley).

(C) Referring to claim 17, Bid For Surgery and Lavin do not expressly disclose wherein the response-receiving engine checks responses for clinical quality indicators.

Henley discloses wherein the response-receiving engine checks responses for clinical quality indicators (para. 19 of Henley).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the feature of Henley within Bid For Surgery and Lavin. The



motivation for doing so would have been to verify that a provider is properly qualified to perform an offered service (para. 19 of Henley).

(D) Referring to claim 19, Bid For Surgery discloses wherein the clinical quality indicators include the number of times a medical procedure has been performed (para. 16 of [www.mol.net/media/healthsurfing](http://www.mol.net/media/healthsurfing)).

(E) Referring to claim 20, Bid For Surgery discloses wherein the clinical quality indicators include the number of times a medical procedure has been performed by a physician associated with one particular response (para. 16 of [www.mol.net/media/healthsurfing](http://www.mol.net/media/healthsurfing)).

(F) Referring to claim 22, Bid For Surgery and Lavin do not disclose a contact mechanism including a number of input mechanisms to construct a message.

Henley discloses a contact mechanism including a number of input mechanisms to construct a message (Fig. 19 and para. 134 of Henley).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the feature of Henley within Bid For Surgery and Lavin. The motivation for doing so would have been to provide feedback (para. 134 of Henley).

(G) Referring to claim 23, Bid For Surgery and Lavin do not disclose wherein the proposal construction engine checks responses for a price of healthcare services listed therein.

Henley discloses wherein the proposal construction engine checks responses for a price of healthcare services listed therein (para. 19 and para. 92 of Henley).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the feature of Henley within Bid For Surgery and Lavin. The motivation for doing so would have been to allow the flexibility of an improved auctioning process for negotiating a price (para. 19 of Henley) and to ensure that the process is complete (para. 92 of Henley).

(H) Referring to claim 24, Bid For Surgery and Lavin do not expressly disclose a billing module.

Henley discloses a billing module (para. 98 of Henley).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the feature of Henley within Bid For Surgery and Lavin. The motivation for doing so would have been to provide transaction analysis (para. 98 of Henley).

10. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bid For Surgery (as disclosed by [www.medicineonline.com/bidforsurgery](http://www.medicineonline.com/bidforsurgery), [www.mol.net/media/auctionwatch](http://www.mol.net/media/auctionwatch), and [www.mol.net/media/healthsurfing](http://www.mol.net/media/healthsurfing)) in view of Lavin et al. (5,772,585), in view of Henley (US 2002/0065758 A1), and further in view of Papageorge (US 6,584,445 B2).

(A) Referring to claim 18, Bid For Surgery, Lavin, and Henley do not disclose wherein the clinical quality indicators include the mortality rate for a medical procedure.

Papageorge discloses that the users receive data, such as morbidity and mortality rates for each treatment (column 7, lines 25-29 of Papageorge).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the feature of Papageorge within Bid For Surgery, Lavin, and Henley. The motivation for doing so would have been to provide the users with information on the risks of each treatment option (column 7, lines 41-44 of Papageorge).

11. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bid For Surgery (as disclosed by [www.medicineonline.com/bidforsurgery](http://www.medicineonline.com/bidforsurgery), [www.mol.net/media/auctionwatch](http://www.mol.net/media/auctionwatch), and [www.mol.net/media/healthsurfing](http://www.mol.net/media/healthsurfing)) in view of Lavin et al. (5,772,585), and further in view of Segal et al. (US 2001/0041991 A1).

(A) Referring to claim 21, Bid For Surgery and Lavin do not expressly disclose a referring physician template.

Segal discloses entering data, such as consulting physicians, into a template (para. 112 of Segal).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the feature of Segal within Bid For Surgery and Lavin. The motivation for doing so would have been to keep track of pertinent data and for the patient and doctor to work together (para. 110 of Segal).

### ***Response to Arguments***

12. Applicant's arguments with respect to claims 1-39 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited but not applied prior art teaches online bidding for a contract to provide a good or service (US 2002/0059132 A1); SA plastic surgery web auction (<http://news.bbc.co.uk/1/hi/world/africa/848889.stm>); Outpatient Surgery Magazine: Bid for Surgery Website Stirs up Trouble (<http://www.outpatientsurgery.net>); Bid For Surgery Launches Online; and Bid For Surgery Online: Web Site Auction to Empower Healthcare Consumers.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lena Najarian whose telephone number is 571-272-7072. The examiner can normally be reached on Monday - Friday, 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on 571-272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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